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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed December 22, 2006.

Claims 39-56 are pending. By this response, Applicants have amended independent claims 39 and 48. The amendments are fully supported by Applicants' original specification, including the original claims and drawings. For example, the Applicants' specification on page 13, lines 10-13 teaches that a slice combiner combines slices in the order in which the decoder at a receiver side can easily decode without further slice re-organization.

In view of the foregoing amendments and the following discussion, Applicants respectfully submit that none of the claims now pending in the application are obvious over the cited references under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response including amendments.

Claims 39-56 Patentable over Ellis/Zdepski under §103

Claims 39-56 were rejected under 35 U.S.C. §103(a) as being unpatentable over Publication No. US 2004/0117831 for Ellis et al. ("Ellis") in view of U.S. Patent No. 6,606,746 to Zdepski et al. ("Zdepski"). The rejection is traversed.

According to MPEP §2143, to establish a prima facie case of obviousness under §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the

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reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The combination of Ellis and Zdepski fails to teach or suggest all the elements in claims 39-56.

Ellis fails to teach, show or suggest slice based encoding. The Examiner concedes this in the Office Action dated July 31, 2006. (See p. 4, ll. 10-11.) However, the Examiner then asserts that Zdepski bridges the substantial gap left by Ellis. Applicants' respectfully submit that Zdepski also fails to teach slice-based encoding. Regardless, even if the Examiner maintains the broad interpretation of Zdepski, Zdepski fails to teach Applicants' amended independent claims 39 and 48 because Zdepski clearly does not teach or suggest combining the slice-based encoded music channel listing region, header region and music channel description region in an order to be decoded before transmission to the STT for display and then recombining slice-encoded packets of data or the regions in the order they arrive.

Zdepski discloses a method for displaying a graphical user interface by providing a compressed background picture and pasting insert pictures into the background picture in response to interactive program execution and/or user input. (Zdepski, abstract.) Such pasting one picture into another is not the same as the claimed slice encoding of different regions that form a music interface, because no pasting is done. Specifically, each region is separately slice-encoded at the headend and then recombined to form the music interface for display at the set top terminal. The claimed recombined regions are different than the background and pasted insert picture of Zdepski.

Furthermore, the division of frames into a grid of squares in Zdepski is different than the claimed slice-encoded regions, because regions are functional (e.g., music channel listing region, header region, music channel description region) while the grid is based on pixels. (Zdepski, col. 2, lines 29-39; Figure 4A.) For example, the Applicants' invention teaches that three different regions (e.g. a music channel listing region, header region and music channel description region) are slice-encoded separately in independent claims 39 and 48. Encoding each region separately may be advantages

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because if, for example, a user changes the view of the music channel listing region, only the music channel listing region may need to be recreated.

Notably, the Examiner does not appear to address this novel feature in the Office Action. For example, Ellis does not teach or suggest that the guide illustrated in FIG. 53A and 53B are encoded separately. Moreover, Zdepski also fails to teach or suggest that different regions may be slice-encoded separately. Zdepski only teaches the ability to paste pictures into a background. (Zdepski, Abstract.)

Regardless, even if the Examiner maintains the unduly broad interpretation of Zdepski, Zdepski still fails to teach, show or suggest recombining slice-encoded packets of data or the regions in the order they arrive. Zdepski teaches away from Applicants' invention because Zdepski teaches that "the subscriber television uses the back-ground picture slice map to determine a location of the replacement slices comprised in the compressed background picture, and uses the insert picture slice map to provide the slices comprising the compressed insert picture in place of the replacement slices." (See Zdepski, col. 13, ll. 29-37, emphasis added.) In other words, Zdepski requires the use of slice maps to determine the location of where the compressed insert pictures are to be "pasted".

In rebuttal, the Examiner asserts that Zdepski teaches this limitation on column 13, lines 45-59 and column 13, line 66 – column 14, line 18. Zdepski at column 13, lines 45-49 only teach that the subscriber television determines the location of the replacement slices if the video delivery system does not provide a background picture slice map. Zdepski, continues to teach that where slice maps are not provided, the pasting operation requires considerably more processing due to the necessity of locating the replacement slices. (See *Id.*) The Applicants respectfully submit that this does not teach or suggest recombining slice-encoded packets of data or the regions in the order they arrive.

Moreover, Zdepski at column 13, line 66 – column 14, line 18 rephrases the previous sentence at lines 63-65. The previous sentence teaches that in response to step 506 being performed (i.e. the pasting operation using the picture slice map or where the subscriber television determines the location of the replacement slices) the decoder decodes the compressed background picture. (See *Id.* at ll. 63-65.) In other

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words, Zdepski teaches that the ordering is performed at the subscriber television (i.e. set top terminal) and the decoder decodes the received slices in the order they are provided to the decoder from the ordering performed by the subscriber television (i.e. set top terminal). (See *Id.*)

In contrast, the Applicants' invention teaches that the set top terminal simply recombines the slice-encoded packets of data or the regions in the order they arrive because the slice-based encoded music channel listing region, header region and music channel description region are combined in an order to be decoded before transmission to the STT for display. To articulate this more clearly, the Applicants have amended the independent claims to recite such limitation. Zdepski clearly does not teach or suggest combining the slice-based encoded music channel listing region, header region and music channel description region in an order to be decoded before transmission to the STT for display and then recombining slice-encoded packets of data or the regions in the order they arrive. Therefore, claims 39-56 are patentable over the proposed combination of Ellis and Zdepski under §103 and Applicants respectfully request reconsideration and allowance.

Official Notice

Applicants respectfully submit that the Examiner has failed to properly establish Official Notice. Under MPEP 2144.03, the Examiner cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies. In re Lee, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), emphasis added. Moreover, there must be some form of evidence in the record to support an assertion of common knowledge. See *Id.*

The Examiner's self proclaimed "notoriousness" in the art of interactive program guides to use bitmaps for the transmission and display of GUI images for the advantage of using a well-known standard display format which is easily portable between different platforms, and may be easily compressed and processed using MPEG processing is clearly "conclusory". Furthermore, Applicants respectfully submit that the allegedly "notoriously well known" features of Applicant's invention may not be well known in the

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art of interactive program guides. Therefore, without supporting evidence the Examiner falls to properly establish Official Notice:

As a result, the Examiner is required to support his or her finding with adequate evidence. Applicants respectfully request that the Examiner provide references showing the allegedly "notoriously well known" features of Applicants' invention. Alternatively, the Examiner is required by 37 CFR 1.104(d)(2), to support the finding of what is known in the art by providing an affidavit or declaration setting forth specific factual statements and explanation to support the finding.

CONCLUSION

Thus, Applicants submit that all the claims pending in the application are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 530-9404 so appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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E J Wall

Eamon J. Wall, Attorney
Reg. No. 39,414
(732) 530-9404

Patterson & Sheridan, LLP
Attorneys at Law
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702